

**VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 35A.3(2), the Commission of Veterans Affairs hereby amends Chapter 10, "Iowa Veterans Home," Iowa Administrative Code.

The intent of these amendments is to reflect the operational changes the Iowa Veterans Home has undertaken since the last revision of Chapter 10.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2594C** on June 22, 2016. No public comments were received. One change from the published Notice of Intended Action has been made. In Item 31, subrule 10.23(1), the words "per diem" in reference to full support rate were removed to be consistent with the definition of full support rate.

The Commission of Veterans Affairs adopted these amendments on July 27, 2016.

There will be no impact on jobs.

These amendments are intended to implement Iowa Code chapter 35D.

These amendments will become effective September 21, 2016.

The following amendments are adopted.

ITEM 1. Amend **801—Chapter 10**, preamble, as follows:

The Iowa Veterans Home is a long-term health care facility located in Marshalltown, Iowa, ~~operated with oversight provided by the Commission of Veterans Affairs~~ commission of veterans affairs.

ITEM 2. Rescind the definition of "Chief operating officer" in rule **801—10.1(35D)**.

ITEM 3. Amend rule **801—10.1(35D)**, definition of "Full support," as follows:

*"Full support rate"* means the maximum daily rate of support times the billable days of care received in any month less any offsets.

ITEM 4. Adopt the following new definition of "Licensed nursing home administrator" in rule **801—10.1(35D)**:

*"Licensed nursing home administrator"* means a duly licensed nursing home administrator pursuant to Iowa Code chapter 147.

ITEM 5. Amend paragraphs **10.3(4)"b," "d" and "e"** as follows:

b. ~~An original or a certified~~ A copy of the veteran's honorable discharge from the armed forces of the United States.

d. If the applicant is a Gold Star parent, ~~an original or certified~~ a copy of the child's birth certificate and certification of the child's death while serving on active duty in the armed forces of the United States during a time of military conflict.

e. ~~An original or a certified~~ A copy of the applicant's birth certificate.

ITEM 6. Amend subrule 10.4(2) as follows:

**10.4(2)** The admissions committee shall assign the level of care required by the applicant. If a special care unit or treatment is required, this shall be designated. If there is a question regarding the level of care for which the applicant qualifies, the applicant shall be scheduled for either a preadmission visit with appropriate staff or a site visit in order to make a determination of appropriate level of care.

ITEM 7. Rescind paragraph **10.4(5)"c."**

ITEM 8. Reletter paragraph **10.4(5)"d"** as **10.4(5)"c."**

ITEM 9. Amend relettered paragraph **10.4(5)"c"** as follows:

c. Prior to an applicant's admission to a nursing care unit, the PASRR ~~is completed~~ shall be received.

ITEM 10. Amend rule 801—10.6(35D) as follows:

**801—10.6(35D) Admission to IVH.**

**10.6(1)** The applicant shall be notified by the admissions coordinator to appear for admission to IVH.

**10.6(2)** Upon arrival at IVH, the applicant or legal representative shall ~~report to~~ meet with the admissions office and resident finance office for an admission interview.

**10.6(3)** During the interview ~~in the admissions office with the admissions coordinator~~, the following items will be reviewed ~~with~~ and signed by the applicant or legal representative:

~~a. The applicant's resources.~~

~~b. The member support, billing process and banking services.~~

~~a. Permission for Treatment, Form 475-0814.~~

~~e. b. The "Contractual Agreement," Form 475-1833.~~

**10.6(4)** ~~In order to meet the requirements of subrule 10.6(3),~~ During the interview with the resident finance office, the accounting technician will review the following items with the applicant or legal representative shall complete and sign the following forms as applicable:

~~a. Permission for Treatment, Form 475-0814.~~

~~b. Financial Affidavit, Form 475-0839.~~

~~a. The applicant's resources.~~

~~b. The member support, billing process and banking services.~~

**10.6(5)** An applicant becomes a member at that point in time when the applicant or legal representative signs and dates the "Contractual Agreement," Form 475-1833, or otherwise authorizes, in writing, acceptance of the terms of admittance specified in the Contractual Agreement.

**10.6(6)** Each member shall be placed on a unit providing the appropriate level of care based on individual needs.

*a.* A member requiring a subsequent change in placement based on individual care needs shall be transferred to a unit which provides the appropriate level of care within the scope of its licensure.

*b.* Members shall have priority over new admissions for placement on a unit when a vacant bed becomes available.

**10.6(7)** Care at IVH shall be provided in accordance with Iowa Code chapter 135C; 481—Chapter 57, Residential Care Facilities; 481—Chapter 58, Nursing Facilities; and DVA State Veterans Homes, Veterans Health Administration, M-5, Part 8, Chapter 2, Procedure for Obtaining Recognition of a State Veterans Home and Applicable Standards, 2.07, Standards for Nursing Care, and 2.08, Standards for Domiciliary Care, November 4, 1992.

ITEM 11. Amend subrule 10.11(4) as follows:

**10.11(4)** In some cases, a member may be determined to be in need of ~~a fiduciary or an agent~~ by the DVA, the Social Security Administration or ~~by~~ a similar funding source. In these cases, the commandant or designee may serve as agent subject to Iowa Code section 135C.24. All rights and responsibilities regarding the financial awards shall devolve to the commandant or designee.

ITEM 12. Amend paragraphs **10.12(1)"a," "p" and "q"** as follows:

*a.* To timely report the existence of or changes in the member's income, spouse's income, assets or marital status, including the conversion of nonliquid assets to liquid assets. ~~The member shall also complete the change report which is enclosed with the monthly member support bill.~~

*p.* To carry Medicare Part B and Medicare Part D insurance if eligible. IVH shall buy the medical insurance portion of Medicare Part B and Medicare Part D if the member is not eligible to receive Medicare ~~Part B~~ under Social Security social security.

*q.* To delegate to IVH the authorization to enroll the member in ~~a prescription drug plan~~ Medicare Part B and Medicare Part D. The premium shall be deducted from the member's social security or paid monthly with the member's funds.

ITEM 13. Adopt the following new paragraph **10.12(1)"r"**:

*r.* To assign the benefits of Medicare Part B, Medicare Part D and other medical insurances to IVH. The cost of Medicare Part B, Medicare Part D and other medical insurances shall be used as an

offset to the aggregate semiannual per diem rate calculation according to the particular level of care as calculated in January and July of each year for the preceding six months and effective March 1 and September 1.

ITEM 14. Amend subrule 10.12(4) as follows:

**10.12(4)** When a member temporarily needs a level of care that is not offered by IVH, the member shall be referred by IVH medical staff to a DVA medical center or to ~~another~~ other medical facility. ~~When a member goes to a DVA medical center, that member is responsible for the payment of any DVA charges except those charges exempted by the commandant.~~

*a.* If a member who is treated at a DVA medical center has coinsurance to supplement Medicare, this coinsurance shall be used for the DVA medical center charges. IVH shall be responsible for all DVA medical center charges if the member does not carry coinsurance supplement.

*b.* If a member chooses a medical facility other than a DVA medical center or other medical facility as referred by IVH medical staff, the member is responsible for costs resulting from care at the medical facility chosen.

ITEM 15. Amend subrule 10.14(1) as follows:

**10.14(1)** A monthly member support bill shall be sent to the member or legal representative charging the member for care in the previous month with any necessary adjustment for prior months. A member ~~may~~ shall be required to pay member support charges from the member's liquid assets, and long-term care insurance benefits, ~~or~~ and from the member's income. The monthly member support charge shall be the billable days, as set out in subrule 10.14(3), multiplied by the appropriate per diem from rule 801—10.15(35D). This amount shall be reduced by any offsets as set out in subrules 10.15(2) and 10.15(3). The member or legal representative shall pay an amount not to exceed the amount calculated based on the resources available for the cost of care as set out in this chapter.

ITEM 16. Amend paragraph **10.14(3)“b”** as follows:

*b.* All leave days in excess of the 12 free days up through the fifty-ninth leave day. Any leave days in excess of 59 days shall be considered billable, ~~but~~ and the member must pay the full ~~member~~ support rate, not the amount determined by resources.

ITEM 17. Amend paragraphs **10.15(1)“a”** and **“b”** as follows:

*a. Nursing level of care.*

(1) The charge for care is the per diem rate calculated in January and July of each year for the preceding six-month period and is submitted by IVH to the Iowa Medicaid enterprise of the department of human services ~~for the Title XIX certified units as calculated in January and July of each year for the preceding six months.~~

(2) ~~The charge for care~~ updated per diem rate shall be ~~adjusted, if necessary,~~ effective semiannually on March 1 and September 1 of each year.

(3) Members or financial legal representatives shall be sent a notice one month in advance of the rate change.

*b. Domiciliary level of care.*

(1) The total cost of care per member shall be determined in January and July of each year for the ~~preceding six months~~ six-month period and calculated in a manner similar to the nursing level of care. This cost shall be the ~~charge for care~~ updated per diem rate.

(2) ~~The charge for care~~ per diem rate shall be ~~adjusted, if necessary,~~ semiannually on March 1 and September 1 of each year.

(3) Members or financial legal representatives shall be sent a notice one month in advance of the rate change.

ITEM 18. Amend subrule 10.15(2) as follows:

**10.15(2)** ~~Veteran members not living on Title XIX certified units and those living on Title XIX certified units but not eligible for Title XIX medical assistance~~ for whom IVH receives a per diem from the U.S. DVA (under Title 38). IVH shall consider this per diem as a third-party reimbursement to the charge for care and shall be an offset to the member support bill. The offset of the per diem

received (billed to DVA) shall be shown as an offset for the month billed. The provisions of 38 U.S.C. 1745(a), which were established by Section 211 of the Veterans Benefits, Health Care, and Information Technology Act of 2006 (Public Law 109-461), set forth a mechanism for paying a higher per diem rate for certain veterans who have service-connected disabilities and are receiving nursing home care in state homes. If IVH receives this higher per diem rate from the DVA, the member will not have a support charge from IVH.

ITEM 19. Amend subrule 10.15(3) as follows:

**10.15(3)** ~~For members not living on Title XIX certified units and those living on Title XIX certified units but not eligible for Title XIX medical assistance.~~ The daily per diem charge shall be reduced by an amount equal to the “usual” appropriate Medicare premium calculated as a per diem Part B and Medicare Part D premiums paid by the enrolled member. ~~This offset shall be available only to members eligible for Medicare insurance.~~

ITEM 20. Renumber subrules **10.15(4)** and **10.15(5)** as **10.15(5)** and **10.15(6)**.

ITEM 21. Adopt the following new subrule 10.15(4):

**10.15(4)** For members carrying other medical insurance upon admission and continuing to carry other medical insurance after admission. The member support charge shall be reduced by an amount equal to the other medical insurance premium.

ITEM 22. Amend renumbered subrules 10.15(5) and 10.15(6) as follows:

**10.15(5)** ~~For members not living on Title XIX certified units and those living on Title XIX certified units but not eligible for Title XIX medical assistance.~~ The member support charge shall be reduced in accordance with subrules 10.15(2), ~~and 10.15(3) and 10.15(4)~~, if applicable. The member shall then contribute all remaining available resources up to the charge for care.

Members receiving DVA pension and aid and attendance shall be considered as having used the amount equal to aid and attendance first in payment for their care at IVH.

**10.15(6)** Payment of support is due ~~on the tenth of the month in which~~ within ten business days after the monthly support bill is received; or ten business days after the member’s last income deposit for that month.

*a.* If payment is not received by IVH within 30 days following the due date, a notice of discharge may be issued.

*b.* If there are extenuating circumstances, the member or legal representative should meet with the commandant or designee to work out a schedule of payments.

ITEM 23. Amend subrule 10.16(1) as follows:

**10.16(1)** ~~For members living on Title XIX certified units who have applied for and are eligible to receive Title XIX medical assistance, rule 441—75.5(249A) shall apply.~~ Financial eligibility for Title XIX shall be determined by the department of human services income maintenance worker.

ITEM 24. Amend subrule 10.16(2), introductory paragraph, as follows:

**10.16(2)** ~~For members not living on Title XIX certified units and those living on Title XIX certified units but not eligible for Title XIX medical assistance,~~ the following rules apply:

ITEM 25. Amend subparagraph **10.16(2)“a”(2)** as follows:

(2) Household goods, personal effects and one motor vehicle ~~vehicles~~ vehicle.

ITEM 26. Amend subrules 10.19(1) and 10.19(2) as follows:

**10.19(1)** ~~For members living on Title XIX certified units who are eligible for Title XIX medical assistance, rule 441—75.5(249A) shall apply.~~ For those members participating in the Title XIX medical assistance program, the difference between the \$140 personal needs allowance and the Title XIX personal needs allowance shall be returned to the member out of individual member participation.

**10.19(2)** ~~For members living on units which are not Title XIX certified and members living on Title XIX certified units who are not eligible for Title XIX,~~ the following shall apply:

*a.* The following types of income are exempt in the computation of member support:

(1) The earned income of the spouse or dependents.

- (2) Unearned income restricted to the needs of the spouse or dependents (~~Social Security~~ social security, DVA, etc.).
  - (3) Any other income that can be specifically identified as accruing to the spouse or dependents.
  - (4) Nonrecurring gifts, contributions or winnings, not to exceed \$60 in a calendar quarter.
  - (5) Interest income of less than \$20 per month from any one source.
  - (6) State bonus for military services.
  - (7) Any earnings received by a member for that member's participation in money-raising activities administered by ~~veterans~~ veterans' organizations or auxiliaries (i.e., poppies).
  - (8) Any money received by a member from the sale of items resulting from a therapeutic activity (i.e., items sold in the IVH gift shop).
  - (9) The first \$150 received by a member in a month for participation in the incentive therapy or other programs as described in rule 801—10.30(35D), for members in the domiciliary level of care. For members in the nursing level of care, the first \$75 shall be exempted.
  - (10) Personal loans.
  - (11) In-kind contributions to the member.
  - (12) Title XIX payments.
  - (13) Yearly DVA compensation clothing allowance for those who qualify.
  - (14) Other income as specifically exempted by statute.
  - (15) Any income similar in its origin to the assets excluded in subparagraphs 10.16(2) "a"(6) and (7).
  - (16) Income from employment as outlined in the IVH discharge planning policy (IVH policy #265).
- b. Personal needs allowance. All members shall have an amount exempted from their monthly income intended to cover the purchase of clothing and incidentals.
    - (1) All income up to the first \$140 shall be kept as a personal needs allowance.
    - (2) The personal needs allowance shall be subtracted from the member's income prior to determination of moneys to which the spouse may be entitled.
  - c. Any type of income not specifically exempted shall be considered for the payment of member support as provided in rule 801—10.14(35D).
  - d. Determining income from property.
    - (1) Nontrust property. Where there is nontrust property, income paid in the name of one person shall be available only to that person unless the document providing income specifies differently. If payment of income is in the name of two persons, one-half is attributed to each. If payment is in the name of several persons, the income shall be considered in proportion to their ownership interest. If the member or spouse can establish different ownership by a preponderance of evidence, the income shall be divided in proportion to the ownership.
    - (2) Trust property. Where there is trust property, the payment of income shall be considered available as provided in the trust. In the absence of specific provisions in the trust, the income shall be considered as stated above for nontrust property.
  - e. The amount of income to consider in the computation of member support shall be as follows:
    - (1) Regular monthly pensions and entitlements. The amount of income to be considered is the gross amount of the monthly entitlement or pension received less any medical insurance premium deductions.
    - (2) Investments or nonrecurring lump-sum payments. Net unearned income from investments or nonrecurring lump-sum payments shall be determined by deducting income-producing costs from the gross unearned income. Income-producing costs include, but are not limited to, brokerage fees, property manager's salary, maintenance costs and attorney fees.
    - (3) Property sold on contract. The amount of income to consider shall be the amount received minus any payments for mortgage, taxes, insurance or assessments still owed on the property and payable by the contract holder.
    - (4) Earned income from a rental, sole or partnership enterprise. The amount of income to consider shall be the net profit figure as determined for the Internal Revenue Service on the member's income tax return.

EXCEPTION: The deductions of the previous year's state and federal taxes and depreciation on the income tax return are not allowable deductions for the purpose of the computation of member support. If a tax return is not available, the member or legal representative shall provide all information and verification needed in order to correctly compute member support.

(5) Partnership income. The member's share of the net profit shall be determined in the same manner as the partnership percentage as determined for the Internal Revenue Service's purposes.

ITEM 27. Rescind paragraph **10.19(3)“b.”**

ITEM 28. Reletter paragraphs **10.19(3)“c”** to **“e”** as **10.19(3)“b”** to **“d.”**

ITEM 29. Amend relettered paragraphs **10.19(3)“b”** and **“d”** as follows:

*b.* Spouse permanently in another nursing home ~~on Title XIX~~. Member shall be treated as single. If the member is in receipt of a DVA pension, the amount of income provided ~~Title XIX~~ the spouse would be the DVA pension dependency amount.

*d.* All current court order proceedings and guardian/conservatorship appointments regarding financial obligations, ~~except child support or alimony~~, shall be honored.

ITEM 30. Amend subrule 10.19(4) as follows:

**10.19(4) Income disbursements.**

*a.* All ~~monthly~~ diversions to spouse or valid court orders shall be mailed or sent electronically as designated or on a monthly basis.

*b.* All checks or electronic payments shall be ~~mailed~~ sent to the proper recipient no later than the eighth day of any given month ~~to proper recipient~~ or, at IVH's option, five business days after the member's last income deposit for that month.

*c.* Monthly income disbursements to a community spouse may be delayed or canceled if there is an overdue amount owed for support payments.

ITEM 31. Amend subrule 10.23(1) as follows:

**10.23(1)** All members who have resources in excess of the full support rate shall be charged the full ~~member~~ support rate. If any member does not apply for all benefits due (such as, but not limited to, Title XIX, DVA pension, DVA compensation, ~~Social Security~~ social security, or any combination), fails to report resources accurately in order to not pay full support, or refuses to accept the available billing programs offered at IVH, that member shall be charged up to full ~~member~~ support rate as if these responsibilities had been followed. Failure to comply with these rules may result in discharge from IVH.

ITEM 32. Amend rule 801—10.30(35D), introductory paragraph, as follows:

**801—10.30(35D) Incentive therapy and nonprofit rehabilitative programs.** Members may be offered the opportunity to perform services for IVH through the incentive therapy program as part of their plan of care. Participating members shall be compensated at the state's minimum wage for their involvement in the incentive therapy program ~~according to applicable guidelines established by the U.S. Department of Labor, Wage and Hour Division, and the commandant or designee~~. If members enrolled in nonprofit rehabilitative programs receive an income from such programs, that income shall be treated in the same manner as the incentive therapy program or IVH policy.

ITEM 33. Amend rule 801—10.35(35D), introductory paragraph, as follows:

**801—10.35(35D) Handling of pension money and other funds.** Each member who has not been assigned a guardian, conservator, fiduciary or representative payee or has not designated a power of attorney while ~~competent~~ having adequate decision-making capacity or as otherwise specified, may manage that member's own personal financial affairs. Upon the receipt of written authorization from the member or legal representative ~~to~~ by the commandant or designee, the commandant or designee may assist the member in the management of the member's financial affairs.

ITEM 34. Amend subrules 10.35(3), 10.35(5), 10.35(6) and 10.35(7) as follows:

**10.35(3)** IVH shall maintain a commercial account with a federally insured bank for the personal deposits of its members. The account shall be known as the IVH membership account/~~rep payee for social security/VA beneficiaries~~. The commandant or designee shall record each member's personal deposits individually and shall deposit the funds in the membership account where the members' deposits shall be held in the aggregate. Interest shall accrue on those accounts that are on deposit the last working Friday of each month. IVH may withdraw moneys from the account maintained pursuant to this subrule to establish certificates of deposit for the benefit of all members.

**10.35(5)** The commandant or designee shall maintain a written record of each member's funds which are received by or deposited with IVH. The member or legal representative shall receive a monthly statement showing deposits, withdrawals, disbursements, interest and current balances. If the commandant or designee is made representative payee or fiduciary for the member's financial transactions, this statement shall be maintained in the member's administrative file.

**10.35(6)** Except as otherwise specified and unless the commandant or designee has been appointed representative payee or fiduciary, funds deposited with IVH shall be released to the member or legal representative upon request ~~with a~~. A statement will be provided showing deposits, disbursements, interest, and the final balance at the time the funds are withdrawn. When the member continues to maintain residency at IVH, the funds shall be released and a statement provided within three working days following the request. When a member is being discharged from IVH, the funds shall be released and a statement provided no later than the tenth day of the month following the month of discharge.

**10.35(7)** Upon the death of a member with personal funds deposited with IVH, IVH will first take payment for the final support bill, which may include debts owed to the IVH arts and crafts and ceramics program. If funds remain, IVH, upon receipt of documentation of the outstanding balance, will convey promptly the member's funds to ~~any outstanding the funeral home bill, or to the individual paying last funeral expenses, or whoever is administering the member's estate~~. IVH will notify promptly the estate recovery program of the death of any IVH resident who has been on Title XIX. Upon IVH's receipt of notification from the estate recovery program, any funds remaining in the deceased resident's membership account will be disbursed according to the deceased resident's directions. If probate papers are produced, a final accounting of those funds must also be provided to the individual administering the member's estate along with a disbursement of any remaining funds. If the value of the member's estate is so small as to make the granting of administration inadvisable, IVH must hold, then deliver all money plus interest within one year to the proper heirs equally or adhere to the member's request in the member's last will and testament.

ITEM 35. Adopt the following new subrule 10.35(8):

**10.35(8)** A member discharged while on leave from IVH shall have the member's account closed before the first of the month following discharge.

ITEM 36. Amend paragraphs **10.36(1)**"c" to "f" as follows:

c. All leaves other than free time shall require payment of member support charges as though the member were in residency. Failure to pay regular member support charges ~~shall~~ may result in discharge of the member. Leave length may be changed by notification from the member or legal representative to the nursing unit social worker or domiciliary office.

d. Hospital leaves. Leaves spent in approved medical facilities away from IVH shall not be counted against the 59-day leave time limit as set out in paragraph 10.14(3) "b."

Hospital leaves shall be granted and the charges for such leaves shall be as follows: During the first ten consecutive days of any hospital stay, the member shall pay the regular and usual assessed charge ~~of for the member's level of care of the bed held~~. Beginning on the eleventh day through the remainder of the hospitalization, the member shall not be charged. Each monthly member support bill shall reflect any adjustments related to hospitalization. ~~Members discharged while on leave from IVH shall have the account closed before the first of the month following the discharge.~~

Leaves to other medical facilities for the purpose of treatment shall be treated as hospital leaves.

e. General leaves.

- (1) Twelve days of leave time each calendar year shall be free time.
- (2) The member shall be charged the usual support charge for leave time over 12 days up to and including 59 days.
- (3) The member shall be charged the full ~~member~~ support rate for the level of care in which the member resides for leave time over 59 days.
- (4) Leave time is not cumulative from one calendar year to another calendar year.
- (5) Leave time the member has not utilized or cannot utilize shall not be credited toward the member's support.
- (6) Support charges for the member on leave who wishes to retain the member's room or bed shall be due and payable as though the member were in residency as set forth in paragraph 10.36(1) "c."
- f. When the nursing care member is on leave, the member shall remain on in-house status for the first 12 leave days per calendar year for DVA per diem purposes and IVH shall be financially responsible for medical expenses, which include deductibles, co-pays and the member's share after all insurance has been filed and paid to the medical facility, unless these the medical expenses are assumed by the member or legal representative in relation to choice of medical facility.

ITEM 37. Amend paragraph **10.36(2)"d"** as follows:

d. A member or a legal representative who wishes to exceed the 18 visitation days and retain the member's bed, but does not have medical provider recommendation for an extension, must make arrangements with the ~~financial services operations~~ division administrator or designee for payment of the rate determined by the department of human services income maintenance worker for all days in excess of the 18 visitation days. If prior arrangements and payment are not made, a member may be discharged in accordance with subrule 10.12(2).

ITEM 38. Amend paragraphs **10.36(3)"b"** and **"c"** as follows:

b. Upon return from a pass, the member must ~~spend 24 hours~~ remain in residence past midnight of the day of return before another pass is issued.

c. When a member is on pass, the member shall remain on in-house status for DVA per diem purposes; IVH shall be financially responsible for medical expenses, which include deductibles, co-pays and the member's share after all insurance has been filed and paid to the medical facility, unless these the medical expenses are assumed by the member or legal representative in relation to choice of medical facility.

ITEM 39. Adopt the following new rule 801—10.37(35D):

**801—10.37(35D) Mail.**

**10.37(1)** Each member or legal representative shall be afforded a choice in the methods of handling the member's business mail and in meeting the member's responsibilities for reporting resources for the purpose of computation of member support. A member found to have inadequate financial decision making shall have that member's business mail handled in a manner as to respect that member's dignity and still meet the needs of IVH for complete information regarding resources.

**10.37(2)** Each member or legal representative shall be allowed to handle that member's business mail to the degree of responsibility chosen by the member or legal representative. A member may:

- a. Elect to receive all business mail personally and provide the resident finance office with financial documentation, or
- b. Designate that the member shall receive personal mail items, but business mail received at IVH from entitlement sources or concerning assets shall be routed to the resident finance office, cashier's office or Medicare office, whichever is appropriate.

ITEM 40. Amend paragraphs **10.40(1)"d"** and **"i"** as follows:

d. Firearms or weapons of any nature shall be turned in to the commandant or designee for safekeeping. The commandant or designee shall decide if an instrument is a weapon. Firearms or weapons in the possession of a member which constitute a hazard to self or others shall be removed and stored in a place provided and controlled by the facility or sent with family members for safekeeping.



i. Members shall report to the ~~admissions coordinator~~ resident finance supervisor or designee any changes in assets/income, and pay support ~~by the tenth of each month~~ within ten business days after the monthly support bill is received or ten business days after the member's last income deposit for the month.

ITEM 41. Amend subparagraphs **10.40(2)“b”(2)** and **(3)** as follows:

(2) If, after a period of up to six months, the member's behavior is deemed appropriate by the facility, the handling of funds will be reviewed, and funds may be returned to the control of the member.

(3) If the member is discharged from IVH, the balance of the ~~deposit shall be paid to the member or financial legal representative within 30 days of discharge~~ funds in the IVH membership account shall be paid to the member or financial legal representative no later than the tenth day of the month following the month of discharge.

ITEM 42. Amend rule 801—10.41(35D) as follows:

**801—10.41(35D) County of settlement upon discharge.** A member does not acquire legal settlement in Marshall County, the county in which IVH is located, unless the member is voluntarily or involuntarily discharged from IVH, continuously resides in the county for a period of one year subsequent to the discharge and during that year is not readmitted to IVH and does not receive any services from IVH.

ITEM 43. Amend subrule 10.42(3) as follows:

**10.42(3)** Upon the death of a member with personal funds deposited at IVH, after the final bill and any outstanding funeral expenses have been paid, and after receipt of notification from the estate recovery program (for those on Title XIX) that release of funds is approved, IVH shall convey the member's funds along with a final statement to the legal representative administering the member's estate. When an estate is not opened or in cases where no executor is appointed, IVH shall attempt to locate the deceased member's heirs and deliver the funds ~~and property~~ to the heirs equally or according to the terms of the last will and testament within one year after the date of death.

ITEM 44. Amend paragraph **10.43(1)“a,”** introductory paragraph, as follows:

a. The member has been diagnosed with a substance use disorder but continues to abuse alcohol or an illegal drug in violation of the member's conditional or provisional agreement entered into at the time of admission ~~or at any time thereafter,~~ and all of the following conditions are met:

ITEM 45. Amend paragraph **10.43(1)“c”** as follows:

c. The member no longer ~~requires a~~ meets the requirements for residential or nursing level of care, as determined by the IRCC or medical provider.

ITEM 46. Amend paragraph **10.43(3)“c”** as follows:

c. A statement in not less than 12-point type which reads: “You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing in writing or verbally with the Commission of Veterans Affairs (hereinafter referred to as “Commission”) within five (5) calendar days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice at your own expense. If you request a hearing, it will be held, and a decision rendered within ten (10) calendar days of the filing of the appeal. Provision may be made for extension of the ten (10) day requirement upon request to the Commission designee. If you lose the hearing, you will not be discharged or transferred before the expiration of 30 days following receipt of the original notice of the discharge or transfer, or no sooner than five (5) days following final decision of such hearing. To request a hearing or receive further information, call the Commission or write to the Commission to the attention of: Chairperson, Commission of Veterans Affairs.”

ITEM 47. Amend subrules 10.43(6) and 10.43(7) as follows:

**10.43(6)** By the fourth Monday of each session of the Iowa general assembly, the commandant shall submit a report annually to the senate veterans affairs committee and the house veterans affairs committee specifying the number, circumstances and placement of each member involuntarily discharged from IVH under this rule during the previous calendar year.

**10.43(7)** Any involuntary discharge by the commandant or designee under this rule shall comply with the rules adopted by the commission and by the department of inspections and appeals pursuant to ~~2009 Iowa Acts, Senate File 407, section 2~~ in accordance with Iowa Code section 35D.15.

ITEM 48. Amend subrule 10.46(1) as follows:

**10.46(1)** A member shall discuss the problem and action desired with the assigned social worker within five working days of the incident which caused the problem. The social worker shall investigate the situation and attempt to resolve the problem within five working days of the discussion with the member. If the assigned social worker has allegedly caused the grievance, the member may file the grievance directly with the ~~supervising unit manager~~ social work supervisor.

ITEM 49. Adopt the following new rule 801—10.49(35D):

**801—10.49(35D) Licensed nursing home administrator.** The commandant shall employ a licensed nursing home administrator and convey the authority for compliance with all applicable laws and rules. This rule is intended to implement Iowa Code chapter 135C.

ITEM 50. Amend subrule 10.50(2) as follows:

**10.50(2)** Visitors are subject to the policies and procedures as established by IVH ~~rules~~, including the tobacco-free policy.

ITEM 51. Adopt the following new subrule 10.50(8):

**10.50(8)** Visitors who bring pets must comply with IVH rules regarding pet health and safety. Pets shall be kept on a leash while on IVH grounds.

ITEM 52. Rescind and reserve rule **801—10.51(35D)**.

ITEM 53. Amend rule 801—10.53(35D) as follows:

**801—10.53(35D) Donations.** Donations of money, new clothing, books, games, recreational equipment or other gifts shall be made directly to the commandant or designee. The commandant or designee shall evaluate the donation in terms of the nature of the contribution to the facility program. The commandant or designee shall be responsible for accepting the donation and reporting the gift to the commission. All monetary gifts shall be acknowledged in writing to the donor and reported to the Iowa ethics and campaign disclosure board.

ITEM 54. Amend subrule 10.56(3) as follows:

**10.56(3)** Pets are ~~not only~~ allowed inside the cottages as outlined in the IVH cottage occupancy policy. ~~Occupants who bring pets must comply with IVH rules regarding pet health and safety. Pets will be housed in a portable pet kennel outside the cottage and kept on a leash while on the IVH grounds. The kennel shall be provided by the pet owner.~~

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/17/16.